



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/334,978	06/17/1999	JOHN C. WEBBER	1365-021C	5936

8698 7590 04/16/2004
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

EXAMINER

PASS, NATALIE

ART UNIT	PAPER NUMBER
----------	--------------

3626

DATE MAILED: 04/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/334,978

Applicant(s)

WEBBER ET AL.

Examiner

Natalie A. Pass

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08 March 2004 has been entered.
2. This communication is in response to the Request for Continued Examination and amendment filed 08 March 2004. Claims 1, and 21 have been amended. Claim 10 was previously cancelled. Claims 1-9, 11-26 remain pending

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 1, 3, 4, 9, 11-13, 18-19, 21, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al., U.S. Patent Number 5, 715, 448 in view of Shavit et al., U.S. Patent Number 4, 799, 156, and further in view of King, Jr. et al, U.S. Patent Number 5, 319, 542

Art Unit: 3626

for substantially the same reasons given in the previous Office Action (paper number 12).

Further reasons appear hereinbelow.

(A) Claim 1 has been amended to recite the limitation of "said first merchant computer and said second merchant computer" in lines 20-21. Claim 21 has been amended to recite the limitation of "from said plurality of merchant computers" in line 16.

As per claims 1, 11, 18, and 21, Suzuki teaches an electronic shopping system and method, comprising

a first network connection between a first merchant computer (Suzuki; Figure 1, Item 10 – Apparel Manufacturer A) and a network host computer (Suzuki; Figure 1, Item 52, column 4, lines 22-23), said first connection for transmitting product information (Suzuki; Figure 2, column 3, lines 10-11) to said network host computer;

a second network connection between a second merchant computer and said network host computer, said second connection for transmitting product information to said network host computer (Suzuki; Figure 1, Item 10 – Apparel Manufacturer B, Figure 2, column 3, lines 10-11, column 4, lines 22-23);

a database at said network host computer for storing said product information from said first merchant computer and said second merchant computer (Suzuki; see at least Figure 1, Item 53, column 4, lines 12-16, Figure 4);

a first computer program at said network host computer for assimilating or processing said product information (Suzuki; Figure 3, column 5, lines 6-9);

a third network connection between said network host computer and a customer computer (Suzuki; Figure 1, Item 20) said third connection for transmitting said assimilated or processed

Art Unit: 3626

product information to said customer computer (Suzuki; Figure 3, column 5, lines 10-16) and for transmitting real time updates to said assimilated or processed product information said first merchant computer and said second merchant computer in accordance with a request from said customer computer (Suzuki; column 5, lines 31-32, 47-48, column 8, lines 59-64, Figure 9, Item S12).

Suzuki also teaches

establishing a connection between a customer computer and a host computer in communication with said database, said customer computer adapted to display information received from said host computer (Suzuki; column 4, lines 22-29, Figure 2);

receiving at said host computer a request from said customer computer for product information from said database (Suzuki; column 8, lines 59-64, Figure 9, Item S12); and

displaying said assimilated or processed product information at said customer computer (Suzuki; column 9, lines 1-6).

Suzuki discloses a system and method comprising product information not only from a first and second merchant computer but also from a plurality of merchant computers, a plurality of connections between said plurality of merchant computers and a host computer (Suzuki; Figure 1, Items 10, 30, 40).

Suzuki fails to explicitly disclose these limitations in accordance with different types of network connectivity.

Shavit teaches an electronic shopping system and method which supports connections in accordance with different types of network connectivity (Shavit; see at least Figure 1, Items 74a-i, Item 79, column 5, lines 39-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the electronic shopping system and method of Suzuki, to include

Art Unit: 3626

connections in accordance with different types of network connectivity, as taught by Shavit, with the motivation of providing an interactive business transaction processing system permitting controlled on-line interactive concurrent electronic access to various members of an industry, to freight, financial, and related services, and to operational and commercial information data bases and computing services and to provide a system for interactive on-line electronic communications and processing of business transactions between a plurality of sellers and a plurality of buyers (Shavit; column 2, lines 5-19).

Although Suzuki teaches assimilating product information from said database in accordance with said request from said customer computer for display at said customer computer, Suzuki fails to explicitly disclose a system and method comprising assimilating product information from said database in accordance with said request from said customer computer for display in one presentation at said customer computer distinguishing said product information from said first merchant computer from said product information from said second merchant computer.

King teaches a system and method comprising assimilating product information from said database in accordance with said request from said customer computer for display in one presentation at said customer computer distinguishing said product information from said first merchant computer from said product information from said second merchant computer (King; column 1, lines 35-41, column 2, lines 1-11, column 7, lines 35-37).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the collective teachings of Suzuki and Shavit, to include a system and method comprising assimilating product information from said database in accordance with said

Art Unit: 3626

request from said customer computer for display in one presentation at said customer computer distinguishing said product information from said first merchant computer from said product information from said second merchant computer, as taught by King, with the motivation of providing the purchaser a competitive shopping tool by offering comparative information on products offered by various suppliers simultaneously displayed, which would facilitate item selection (King; column 1, lines 35-41, column 2, lines 1-11).

(B) As per claims 3, 4, and 26, Suzuki, Shavit and King teach the electronic shopping system and method as analyzed and disclosed above in claims 1 and 21, wherein said customer computer utilizes an information management interface (Suzuki; Figure 1, Item 51B) to simplify communication between said customer computer and said network host computer and wherein said customer computer utilizes said second computer program to further process said product information (Suzuki; Figure 9, Item S12, column 8, lines 61-63, column 9, lines 31-38), (King; column 1, lines 35-41, column 2, lines 1-11, column 7, lines 35-37).

(C) As per claim 12, Suzuki, Shavit and King teach the system and method disclosed above further comprising generating a display of assimilated or processed product information in response to real time changes to product information from said first merchant computer and said second merchant computer (Suzuki; column 5, lines 30-31, 47-48), (King; column 1, lines 35-41, column 2, lines 1-11, column 7, lines 35-37).

Art Unit: 3626

(D) As per claims 9, 13, 19 Suzuki, Shavit and King teach the system and method disclosed above wherein said first type of network connectivity and said second type of network connectivity are selected from the group of TCP/IP or SNA connectivity (Shavit; column 5, lines 39-65).

5. Claims 2, 14-15, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, U.S. Patent Number 5, 715, 448 in view of Shavit et al, U.S. Patent Number 4, 799, 156, and King, Jr. et al, U.S. Patent Number 5, 319, 542 as applied to claims 1, 11, and 21 above, and further in view of Atcheson, U.S. Patent Number 5, 583, 763 for substantially the same reasons given in the previous Office Action (paper number 12). Further reasons appear hereinbelow.

(A) As per claims 2, 14-15, 22-23, Suzuki, Shavit and King disclose an electronic shopping system as discussed in the analysis of claims 1, 11, and 21 above.

Suzuki, Shavit and King fail to expressly disclose an electronic shopping system wherein said first network connection and said second network connection further comprise a network connection between said first merchant computer and a regional host computer; a network connection between said second merchant computer and said regional host computer; and a network connection between said regional host computer and said network host computer, wherein said regional host computer receives said product information from said first merchant computer and said second merchant computer and transmits said product information to said network host computer.

Atcheson teaches a network connection between said first merchant user computer and a regional host computer (Atcheson; Figure 1, Item 110, column 3, lines 15-24) and also a network connection between said second merchant user computer and said regional host computer (Atcheson; Figure 1, Items 108, 110, 104, column 3, lines 15-24). Atcheson also discloses a regional host computer adapted to facilitate said plurality of network connections between said plurality of merchant computers and said host computer (Atcheson; Figure 1) and wherein said product information is assimilated or processed at said regional host computer (Atcheson; column 3, lines 43-49, column 4, lines 37-42).

Atcheson also teaches a network connection between said regional host computer and said network host computer, (Atcheson; Figure 1, Item 106) wherein said regional host computer receives said product information from said first computer and said second merchant computer and transmits said product information to said network host computer (Atcheson; Figure 1, Item 110, column 3, lines 15-38, Figure 2, column 4, lines 32-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system and method of Suzuki, Shavit and King to utilize connections to regional host computers in storing and transferring product information, as taught by Atcheson, with the motivation of adding functionality and efficiency purposes. For example, a regional host is able to act as a "front end" to host processing stations, to perform input and output (I/O) functions for each of the multiple terminals connected to it, to operate as a communications control station between user terminals and the host processing station, to possibly provide local storage for users, and to provide services to smaller groups of users on local networks, allowing more efficient and effective processing of information (Atcheson; column 3, lines 6-50).

6. Claims 5-8, 16-17, 20, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, U.S. Patent Number 5, 715, 448, in view of Shavit et al, U.S. Patent Number 4, 799, 156 and King, Jr. et al, U.S. Patent Number 5, 319, 542 as applied to claims 1, 11, 18 and 21 above, and further in view of Filepp, U.S. Patent Number 5, 347, 632.

(A) As per claims 5, 7, 16-17, 24-25, Suzuki, Shavit and King disclose an electronic shopping system and method as discussed in the analysis of claims 1, 11, and 21 above.

Suzuki, Shavit and King fail to explicitly disclose a system and method wherein said first network connection comprises a switch in communication with said first merchant computer and said network host computer, said switch adapted to assimilate said product information from said first merchant computer and to transfer said product information to said network host computer and wherein said second network connection comprises a switch in communication with said second merchant computer and said network host computer, said switch adapted to assimilate said product information from said second merchant computer and to transfer said product information to said network host computer.

Filepp teaches wherein said first network connection comprises a switch in communication with said first merchant computer and said network host computer, said switch adapted to assimilate said product information from said first merchant computer and to transfer said product information to said network host computer and wherein said second network connection comprises a switch in communication with said second merchant computer and said network host computer, said switch adapted to assimilate said product information from said

Art Unit: 3626

second merchant computer and to transfer said product information to said network host computer (Filepp; see at least Figure 1, Figure 2, column 1, lines 25-35, column 4, lines 19-42, column 5, lines 3-6, column , lines 28-61, column 7, lines 13-23, column 23, lines 31-36, column 24, lines 22-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system and method of Suzuki, Shavit and King to include wherein said first network connection comprises a switch in communication with said first merchant computer and said network host computer, said switch adapted to assimilate said product information from said first merchant computer and to transfer said product information to said network host computer and wherein said second network connection comprises a switch in communication with said second merchant computer and said network host computer, said switch adapted to assimilate said product information from said second merchant computer and to transfer said product information to said network host computer, as taught by Filepp, with the motivation of permitting a very large number of users to obtain access to a large number of applications that have been created to enable the users to obtain information and transactional services, and permitting the data and programs necessary to support applications including interactive text/graphic sessions to be distributed over a computer network to enable the user to obtain information and conduct shopping events (Filepp; column 2, lines 22-50).

(B) As per claims 6, 8, 20, Suzuki, Shavit, King and Filepp disclose an electronic shopping system and method as discussed in the analysis of claims 1, and 18 above wherein said first and second network connections are packet switch network, Ethernet, or modem or dial-up

Art Unit: 3626

connections (Shavit; column 1, lines 44-60), (Filepp; column 7, line 64 to column 8, line 2, column 94, lines 29-41).

Response to Arguments

7. Applicant's arguments filed 08 March 2004 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 08 March 2004.

(A) At pages 12-13 of the 08 March 2004 response, Applicant argues that the features in the Application are not taught or suggested by the applied references. In response, all of the limitations which Applicant disputes as missing in the applied references, including the newly added features in the 08 March 2004 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Suzuki, Shavit, King, Atcheson, and Filepp, based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Actions (papers number 10 and 12), and incorporated herein. In particular, Examiner notes that the recited features of real time or interactive updates to product information based on customer requests are taught by the combination of applied references (Suzuki; column 8, lines 59-64, Figure 9, Item S12), (Shavit; column 6, line 53 to column 7, line 5, column 8, lines 5-15, column 11, lines 10-21, column 12, line 42 to column 13, line 14, column 14, lines 50-62), (King; column 1, line 55 to

Art Unit: 3626

column 2, line 11, column 2, lines 24-55, column 3, line 15 to column 4, line 26, column 5, lines 1-55).

With respect to Applicant's argument at pages 12-13 of the 08 March 2004 response that the Suzuki reference does not teach or suggest updating product information, Examiner notes that "[i]f the operation is a retrieval mode (step S11), the host computer 52 retrieves the integrated database DB 53 in accordance with the retrieval condition in response to the request from the apparel manufacturer 10 or the textile company 20 (step S12), and the result is transmitted", as taught by the applied reference (Suzuki; column 8, lines 59-64), reads on "transmitting real time updates to assimilated product information ... [...] ... in accordance with a request from said customer computer."

With respect to Applicant's assertion that Suzuki teaches manual updates, thus teaching away from Applicant's invention, Examiner disagrees. The Suzuki reference clearly teaches real time updates throughout the reference, and specifically at the applied locations (Suzuki; see at least column 5, lines 31-32, 47-48, column 8, lines 59-64, Figure 9, Item S12). Furthermore, Examiner notes that Applicant's recitation of "real time" updates does not exclude human intervention. For example, two definitions of "real-time " follow:

Real time is a level of computer responsiveness that a user senses as sufficiently immediate or that enables the computer to keep up with some external process.

Real-time is an adjective pertaining to computers or processes that operate in real time. Real time describes a human rather than a machine sense of time. (Source: http://whatis.techtarget.com/definition/0,,sid9_gci214344,00.html)

Real-time: adjective [before noun] describes computing systems that are able to deal with and use new information immediately and therefore influence or direct the actions of the objects supplying that information (Source: Cambridge Advanced Learner's Dictionary:

<http://dictionary.cambridge.org/define.asp?dict=CALD&key=65776&ph=on>)

(B) At page 13-16 of the 08 March 2004 response, Applicant argues the applied references separately and argues each of the references individually. In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed Cir. 1986). In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In particular, as demonstrated in the rejections of newly amended Claims 1 and 21 above, the combined cited references of Suzuki, Shavit, King, Atcheson, and Filepp, teach real-time updates to product information. Examiner notes, for example, that King teaches "updating of the public cross-industry sector catalogs is accomplished by Suppliers whose catalog data is loaded using one of the following methods: ...[...]... B) real-time, on-line access for low volume or emergency updating" (King; see entire reference, and especially column 4, lines 2-15). Shavit teaches an interactive online system where the system confirms orders immediately (reads on real-time updates to product information) (Shavit; see entire reference, and especially column 13, lines 64 to column 14, line 9).

With regard to Applicant's assertion that the applied references do not teach "display in one presentation at said customer computer distinguishing said product information from said first merchant computer from said product information from said second merchant computer"

Art Unit: 3626

Examiner notes that King's teaching of " provide an electronic catalog ordering system that allows the simultaneous display of competitive product information" reads on this limitation (King; column 2, lines 1-11).

Conclusion

8. This is a continuation of applicant's earlier Application No. 09/334,978. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. **Any response to this final action should be mailed to:**

Art Unit: 3626

Box AF

Commissioner of Patents and Trademarks
Washington D.C. 20231

or faxed to:

(703) 305-7687.

For formal communications, please mark
"EXPEDITED PROCEDURE".

For informal or draft communications, please label
"PROPOSED" or "DRAFT" on the front page of the
communication and do NOT sign the communication.

Hand-delivered responses should be brought to Crystal Park 5,
2451 Crystal Drive, Arlington, VA, Seventh Floor (Receptionist).

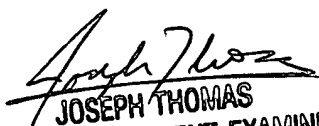
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (703) 305-3980. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (703) 305-9588. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

NP

Natalie A. Pass

April 14, 2004


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600